

Remarks/Arguments

Claims 21-40 are pending in this application, and are rejected in the Office Action of January 31, 2011. No claim amendments are presented in this response. A listing of the pending claims in the application accompanies this response for the Examiner's convenience.

Re: Patentability of Claims 28 and 29 under 35 U.S.C. §112, Second Paragraph

Claims 28 and 29 are rejected under 35 U.S.C. §112, second paragraph, as allegedly being indefinite. Specifically, the Examiner alleges that the claimed "means for determining" and "means for requesting" invoke 35 U.S.C. §112, sixth paragraph, but the written description fails to disclose corresponding structure, material or acts for the claimed functions.

In response, Applicants first note that the claimed functions of the "means for determining" and "means for requesting" correspond to various steps of the control program 600 represented in the flowchart of FIG. 7 of Applicants' specification. Moreover, Applicants' specification clearly indicates that the various steps of the control program 600 represented in the flowchart of FIG. 7 "... may be executed by either the CPU 1112 of FIG. 2, the controller 115 of FIG. 4, or the ARM microprocessor 315 of FIG. 5 to implement the features according to the present invention" (see page 17, lines 3-6). Accordingly, it is clear from Applicants' specification that the claimed "means for determining" and "means for requesting" may correspond to CPU 1112 of FIG. 2, controller 115 of FIG. 4, or ARM microprocessor 315 of FIG. 5.

In view of the foregoing clarification, Applicants submit that claims 28 and 29 are definite under 35 U.S.C. §112, second paragraph, and withdrawal of the rejection is respectfully requested.

Re: Patentability of Claims 21, 23-25, 27-28, 30-32, 35 and 37-38 under 35 U.S.C. §103(a)

Claims 21, 23-25, 27-28, 30-32, 35 and 37-38 are rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,536,041 issued to Knudson et al.

(hereinafter, "Knudson") in view of U.S. Patent Publication No. 2003/0083533 by Gerba et al. (hereinafter, "Gerba") and U.S. Patent Publication No. 2002/0194599 by Mountain (hereinafter, "Mountain"). Applicants respectfully traverse this rejection for at least the following reasons.

Independent claim 21 recites:

"A method for operating a television apparatus, the method comprising steps of:
tuning a channel;
receiving an updated program guide from a broadcaster while said channel is tuned, wherein said updated program guide is provided from said broadcaster without being requested by said television apparatus;
in response to receiving said updated program guide, determining if a banner advertising a future program on said channel is currently displayed while said channel is tuned;
in response to determining that said banner is currently displayed while said channel is tuned, performing a first function while said channel is tuned; and
in response to determining that said banner is not currently displayed while said channel is tuned, performing a second function different from said first function while said channel is tuned." (emphasis added)

As indicated above, independent claim 21 recites a method for operating a television apparatus. According to the claimed method, a channel is first tuned. While the channel is tuned, the television apparatus receives an updated program guide from a broadcaster, wherein the updated program guide is provided (i.e., "pushed") from the broadcaster without being requested by the television apparatus. In response to receiving the updated program guide, the television apparatus determines if a banner advertising a future program on the channel is currently displayed while the channel is tuned. In response to determining that the banner is currently displayed while the channel is tuned, the television apparatus performs a first function while the channel is tuned. In response to determining that the banner is not currently displayed while the channel is tuned, the television apparatus performs a second function different from the first function while the channel is tuned. Independent claims 28 and 35 recite features similar to independent claim 21.

None of the cited references, whether taken individually or in combination, discloses or suggests each and every feature of independent claims 21, 28 and 35.

In the Office Action of January 31, 2011, the Examiner alleges that Gerba discloses the aforementioned underlined features of: "in response to receiving said updated program guide, determining if a banner advertising a future program on said channel is currently displayed while said channel is tuned". Specifically, the Examiner cites paragraphs [0179] and [0187] and element 952 of FIG. 32A of Gerba for allegedly disclosing these claimed features (see page 5 of the Office Action).

In response, Applicants respectfully disagree and submit that Gerba fails to disclose or suggest, *inter alia*, the aforementioned underlined features of the claimed invention. Here, Applicants first note that paragraph [0179] of Gerba states:

"If all IPG data is transmitted via an IPG data channel in a first frequency band, such as on a 'home' channel transmitted either with or without other digital channels in the same band, and a viewer is watching a video channel in a second frequency band, the tuner needs to tune from the second frequency band to the first frequency band to display the currently transmitted IPG data. In that event, the set top box will be unable to simultaneously display the IPG and the last channel watched. Thus, to accomplish the goal of being able to display the last channel watched while using the IPG, IPG data must be available in tunable frequency bands that may contain digital video channels so that the set top box can obtain the IPG data needed to update and present the IPG."
(emphasis added)

As indicated above, paragraph [0179] of Gerba (as cited by the Examiner) discusses techniques for transmitting IPG data to a set top box, and specifically, indicates that IPG data must be available in tunable frequency bands that may contain digital video channels in order to accomplish the goal of being able to display a last channel watched while using the IPG. However, paragraph [0179] of Gerba clearly fails to disclose or suggest, *inter alia*, the claimed features of: "in response to receiving said updated program guide, determining if a banner advertising a future program on said channel is currently displayed while said channel is tuned", as recited by independent claim 21 (and similarly recited by independent claims 28 and 35).

The other cited portions of Gerba are likewise deficient. In particular, paragraph [0187] of Gerba states:

“The process of navigating within the channel tool and displaying the informational banner is described with reference to FIGS. 32A-32D. When entering the channel tool or when changing channels within the tool, the program on the selected channel is displayed in full screen mode, step 950. If the informational banner was fully or partially displayed before entering the new channel, step 952, the information in the banner as displayed is updated and the banner remains on the screen for a short period of time such as five seconds, step 954. If the informational banner was not displayed, the tool identifier, domain identifier 900, and channel icon 902 are displayed on the screen for a short period such as five seconds, step 956.” (emphasis added)

As indicated above, paragraph [0187] of Gerba (as cited by the Examiner) discusses aspects related to a channel tool and changing channels within the channel tool. Specifically, step 952 of FIG. 32A is a decision step that checks to see if an informational banner is fully or partially displayed before a new channel is entered. This is quite different from the claimed invention where a determination regarding the display of a banner advertising a future program on the currently tuned channel is made “in response to receiving said updated program guide”. That is, step 952 of Gerba (as cited by the Examiner) ostensibly determines if a banner is displayed in response to a channel change event, whereas the claimed invention determines if a banner is displayed in response to receiving an updated program guide (where such updated program guide is “pushed” from the broadcaster without being requested by the television apparatus). As such, paragraph [0187] and step 952 of Gerba clearly fail to disclose or suggest, *inter alia*, the claimed features of: “in response to receiving said updated program guide, determining if a banner advertising a future program on said channel is currently displayed while said channel is tuned” (emphasis added), as recited by independent claim 21 (and similarly recited by independent claims 28 and 35).

Accordingly, as indicated above, the cited portions of Gerba clearly fail to disclose or suggest, *inter alia*, the claimed features of: “in response to receiving said updated program guide, determining if a banner advertising a future program on said

channel is currently displayed while said channel is tuned", as recited by independent claim 21 (and similarly recited by independent claims 28 and 35).

Knudson and Mountain are unable to remedy the aforementioned deficiencies of Gerba. Accordingly, even if the teachings of Knudson, Gerba and Mountain are combined, as proposed, the resulting combination still does not disclose or suggest each and every feature of independent claims 21, 28 and 35.

Therefore, for at least the foregoing reasons, Applicants submit that claims 21, 23-25, 27-28, 30-32, 35 and 37-38 are patentable under 35 U.S.C. §103(a) over the proposed combination of Knudson, Gerba and Mountain, and withdrawal of the rejection is respectfully requested.

Re: Patentability of Claims 22, 29 and 36 under 35 U.S.C. §103(a)

Claims 22, 29 and 36 are rejected under 35 U.S.C. §103(a) as being unpatentable over Knudson in view of Gerba and Mountain, and further in view of U.S. Patent Publication No. 2004/0078817 by Horowitz et al. (hereinafter, "Horowitz"). Applicants respectfully traverse this rejection for at least the following reasons.

Horowitz is unable to remedy the admitted deficiencies of Knudson, Gerba and Mountain pointed out above in connection with independent claims 21, 28 and 35 (from which claims 22, 29 and 36 respectively depend).

Accordingly, Applicants submit that claims 22, 29 and 36 are patentable under 35 U.S.C. §103(a) over the proposed combination of Knudson, Gerba, Mountain and Horowitz, and withdrawal of the rejection is respectfully requested.

Re: Patentability of Claims 26, 33-34 and 39-40 under 35 U.S.C. §103(a)

Claims 26, 33-34 and 39-40 are rejected under 35 U.S.C. §103(a) as being unpatentable over Knudson in view of Mountain, Gerba and Horowitz, and further in

view of U.S. Patent No. 6,396,531 issued to Gerszberg (hereinafter, "Gerszberg"). Applicants respectfully traverse this rejection for at least the following reasons.

Gerszberg is unable to remedy the admitted deficiencies of Knudson, Mountain, Gerba and Horowitz pointed out above in connection with independent claims 21, 28 and 35, and dependent claims 22, 29 and 36 (from which claims 26, 33-34 and 39-40 ultimately depend).

Accordingly, Applicants submit that claims 26, 33-34 and 39-40 are patentable under 35 U.S.C. §103(a) over the proposed combination of Knudson, Mountain, Gerba, Horowitz and Gerszberg, and withdrawal of the rejection is respectfully requested.

Conclusion

For at least the foregoing reasons, it is believed that all of the pending claims have been addressed. However, the absence of a reply to a specific rejection, issue or comment does not signify agreement with or concession of that rejection, issue or comment. In addition, because the arguments made above may not be exhaustive, there may be reasons for patentability of any or all pending claims (or other claims) that have not been expressed. Finally, nothing in this paper should be construed as an intention to concede any issue with regard to any claim, except as specifically stated in this paper.

In view of the foregoing remarks/arguments, the Applicants believe this application stands in condition for allowance. Accordingly, reconsideration and allowance are respectfully solicited. If, however, the Examiner is of the opinion that such action cannot be taken, the Examiner is invited to contact the Applicants' attorney at (609) 734-6813, so that a mutually convenient date and time for a telephonic interview may be scheduled. No fee is believed due from this response. However, if a fee is due, please charge the fee to Deposit Account No. 07-0832.

Respectfully submitted,

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Date: 4/27/11

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